

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**KELVIN LORENZO McDANIEL**

**Petitioner,**

**v.**

**Civil Action No. 2:07cv99  
(Judge Maxwell)**

**JOE D. DRIVER,**

**Respondent.**

**ORDER DENYING MOTION FOR COUNSEL**

On December 4, 2007, *pro se* petitioner, filed the above-styled petition for Writ of Mandamus. On January 9, 2008, the petitioner filed a Motion for appointment of counsel. In contrast to a criminal proceeding in which the Court has a duty to assign counsel to represent an indigent defendant in accordance with his constitutional rights, the Court in a civil case has the discretion to request an attorney to represent a person unable to employ counsel. See 28 U.S.C. §1915(e)(1). It is well settled that in a civil action the Court should appoint counsel to represent an indigent only after a showing of a particular need or exceptional circumstances. Cook v. Bounds, 518 F.2d 779 (4<sup>th</sup> Cir. 1975). The petitioner has failed to demonstrate that his current circumstances require the appointment of counsel for him to pursue his petition. Thus, the Court finds that appointment of counsel is not necessary in order for the petitioner to adequately pursue his petition. Accordingly, the petitioner's motion for appointment of counsel (dckt. 11) is DENIED.

IT IS SO ORDERED.

The Clerk of the Court is directed to mail a copy of this Order to the *pro se* petitioner and

any counsel of record.

DATED: January 10, 2008

/s/ James E. Seibert  
JAMES E. SEIBERT  
UNITED STATES MAGISTRATE JUDGE